

REFERENCE TITLE: **eminent domain; open meetings**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2063

Introduced by
Representatives Gray C, Burges, Murphy, Pearce, Smith, Senator Martin:
Representatives Gorman, Stump, Senator Johnson

AN ACT

AMENDING SECTION 38-431.03, ARIZONA REVISED STATUTES; RELATING TO PUBLIC MEETINGS AND PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-431.03, Arizona Revised Statutes, is amended to
3 read:

4 38-431.03. Executive sessions

5 A. Upon a public majority vote of the members constituting a quorum, a
6 public body may hold an executive session but only for the following
7 purposes:

8 1. Discussion or consideration of employment, assignment, appointment,
9 promotion, demotion, dismissal, salaries, disciplining or resignation of a
10 public officer, appointee or employee of any public body, except that, with
11 the exception of salary discussions, an officer, appointee or employee may
12 demand that the discussion or consideration occur at a public meeting. The
13 public body shall provide the officer, appointee or employee with written
14 notice of the executive session as is appropriate but not less than
15 twenty-four hours for the officer, appointee or employee to determine whether
16 the discussion or consideration should occur at a public meeting.

17 2. Discussion or consideration of records exempt by law from public
18 inspection, including the receipt and discussion of information or testimony
19 that is specifically required to be maintained as confidential by state or
20 federal law.

21 3. Discussion or consultation for legal advice with the attorney or
22 attorneys of the public body.

23 4. Discussion or consultation with the attorneys of the public body in
24 order to consider its position and instruct its attorneys regarding the
25 public body's position regarding contracts that are the subject of
26 negotiations, in pending or contemplated litigation or in settlement
27 discussions conducted in order to avoid or resolve litigation.

28 5. Discussions or consultations with designated representatives of the
29 public body in order to consider its position and instruct its
30 representatives regarding negotiations with employee organizations regarding
31 the salaries, salary schedules or compensation paid in the form of fringe
32 benefits of employees of the public body.

33 6. Discussion, consultation or consideration for international and
34 interstate negotiations or for negotiations by a city or town, or its
35 designated representatives, with members of a tribal council, or its
36 designated representatives, of an Indian reservation located within or
37 adjacent to the city or town.

38 7. Discussions or consultations with designated representatives of the
39 public body in order to consider its position and instruct its
40 representatives regarding negotiations for the purchase, sale or lease of
41 real property.

42 B. Minutes of and discussions made at executive sessions shall be kept
43 confidential except from:

44 1. Members of the public body which met in executive session.

1 2. Officers, appointees or employees who were the subject of
2 discussion or consideration pursuant to subsection A, paragraph 1 of this
3 section.

4 3. The auditor general on a request made in connection with an audit
5 authorized as provided by law.

6 4. A county attorney or the attorney general when investigating
7 alleged violations of this article.

8 C. The public body shall instruct persons who are present at the
9 executive session regarding the confidentiality requirements of this article.

10 D. Legal action involving a final vote or decision shall not be taken
11 at an executive session, except that the public body may instruct its
12 attorneys or representatives as provided in subsection A, paragraphs 4, 5 and
13 7 of this section. A public vote shall be taken before any legal action
14 binds the public body.

15 E. Except as provided in section 38-431.02, subsections I and J, a
16 public body shall not discuss any matter in an executive session which is not
17 described in the notice of the executive session.

18 F. Disclosure of executive session information pursuant to this
19 section or section 38-431.06 does not constitute a waiver of any privilege,
20 including the attorney-client privilege. Any person receiving executive
21 session information pursuant to this section or section 38-431.06 shall not
22 disclose that information except to the attorney general or county attorney,
23 by agreement with the public body or to a court in camera for purposes of
24 enforcing this article. Any court that reviews executive session information
25 shall take appropriate action to protect privileged information.

26 G. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A DISCUSSION OR
27 CONSULTATION OR ANY CONSIDERATION OF RECORDS INVOLVING THE TAKING OF PRIVATE
28 PROPERTY FOR ECONOMIC DEVELOPMENT PURPOSES SHALL NOT BE HELD IN EXECUTIVE
29 SESSION.